

OGC Has Reviewed

14 March 1946

MEMORANDUM

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TO: [REDACTED]
Chief, Special Funds Division

FROM: Office of General Counsel

SUBJECT: (Government Losses in Shipment Act)

1. In a recent conversation, we discussed the application of the "Government Losses in Shipment Act" (5 U.S.C. 134, 8 July 1937). It is my understanding that you have copies of the Act, together with the Regulations.

2. To summarize briefly the provisions of the Act, it may be stated that the Act creates a fund which is to be used for the reimbursement of United States Government agencies for loss or damage suffered in connection with the shipment of valuables. The language of the Act is somewhat broad, and apparently has been so construed by those charged with the administration thereof. By its terms, the Act is mandatory and all agencies and employees of the Government are required to comply with its provisions, including the Regulations issued thereunder.

3. It appears that OSS and SSU have not claimed reimbursement under the provisions of the Act, either for security reasons or otherwise. In a memorandum to the Files, dated 2 November 1944, [REDACTED] states that at a meeting of [REDACTED] and himself, it was decided that for security reasons it was inadvisable to claim refunds from the Treasury in the cases then under discussion. In one of these cases, the Board of Review recommended that the amount involved be written off the books.

4. On 26 January 1945, the undersigned discussed this Act and problems arising under it with Mr. Mulvihill and Mr. Martin of the Treasury Department. It was disclosed by them that the War Department and Navy Department had arrangements with the Treasury to omit the filing of monthly reports in view of security considerations. However, they were required to maintain adequate records on all shipments. It would appear desirable for this Unit to make similar arrangements with the Treasury. The initial action would be

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a letter from SSU to the Treasury requesting such an arrangement and the reasons therefor. If it were felt that a claim could not be made because of security reasons, it could be held until such time as security would permit filing of the claim. Since there is no time limit (other than the limits of the appropriation-1948) within which to file claims, this is what War and Navy have done. Although possibly not necessary, it is suggested that it would be desirable for SSU to have a working agreement with the Treasury in this connection.

5. The handling of classified material was discussed with the Treasury representatives, and the undersigned was advised that such material was kept in safes and received special handling while being processed. It was further stated that the Act granted considerable leeway in the matter of proving claims and, although strict compliance with the Act and Regulations is required where possible, a substantial compliance would be sufficient where there were extenuating circumstances.

6. It is recommended that you inform all persons within your division, concerned with the shipment of valuables as defined in the Act, that there is a "Government Losses and Shipment Act" and that the Regulations thereunder concerning shipment and transportation should be complied with in order that claims could be presented where losses were sustained and where security considerations permit it. It is further recommended that past losses of this nature, including those already written off, should be considered at this time with a view to filing claims with the Treasury, if security considerations permit.

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cc: 

JSW:mbt